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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/692,538	10/20/2000	John O. Moody	FS-00504	3407

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EXAMINER	
NGUYEN, NAM V	
ART UNIT	**PAPER NUMBER**
2635	

DATE MAILED: 02/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 09/692,538	**Applicant(s)** MOODY ET AL.	
	Examiner Nam V Nguyen	**Art Unit** 2635	

--Th MAILING DATE of this communication appears on the cover she t with the correspondenc address --

THE REPLY FILED 18 January 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 11. does NOT plac the application in condition for allowance because: On page 7, Applicant's arguments with respect to the invention in Carter et al. do s not t ach or suggest that the "means for transmitting a signal that can be received by an access point of said standard data network and interpreted by an access point of said standard data network as identification information" is not persuasive.

As defined by claims 1 and 6, the patient-worn remote transceiver 34 or location-tracking transceiver 49 of Carter et al. include a small, battery powered transceiver, transmitter or transponder which transmits an ID signal to the location-tracking receivers 49A. The pati nt transceivers 34A, 36A include similar functionality to support the location-tracking of patients. As illustrated in FIG. 1, the system may also include single-WLAN, single-band access points 30B that implement only one of the two WLAN specifications. Each single-WLAN access point may be configured as either a realtime WLAN access point or a non-realtime WLAN access point. Single-WLAN access points may be desirable, for example, in regions of the hospital used primarily for one type of application (time-critical or non-time-critical) and not the other. For example, it may be desirable to provide several WMTS access points 30B within a step down ward or other high-volume patient area, as shown in FIG. 2. As will be recognized by the foregoing, the system can alternatively be implemented with single-WLAN access points 30B only, wherein some of the access points implement a realtime WLAN and other access points implement a non-realtime WLAN. The use of multi-WLAN access points, however, provides the important benefit of allowing the two different categories of wireless devices 34, 36 to share network access resources, thus reducing the quantity of access point resources and the cost of the installation (column 5 line 57 to column 6 line 22). The system includes multiple access points 30 that are interconnected by a hardwired hospital network 32. The access points 30 provide connectivity between the hospital network 32 and various types of wireless devices, including remote patient transceivers 34 used for realtime patient monitoring, and various type of devices 36 used for non-time-critical applications. The access points 30 are spatially distributed throughout the medical facility to provid zones or "cells" of coverage. The access points 30 communicate bi-directionally with the wireless devices 34, 36 using one or more wireless LAN (WLAN) protocols that support the mobility of devices from cell to cell. As described below, a realtime WLAN protocol may be used to communicate with the devices 34 used for time-critical applications, while a standard wireless LAN protocol such as that of IEEE 802.11 may be used to communicate with the other devices 36 (column 3 lines 48 to 65; see Figures 1 and 2). One skilled in the art understands that a patient-worn remote transceiver transmits a signal that can be received by said wireless LAN access points of sai a hospital local area data network as identification information.

Furthermore, Carter et al. disclose any of a variety of alternative transceiver designs and protocols that support the realtime transmissio of data may be used. The physiologic data collected from the patient transceivers 34 is made available for realtime viewing and monitoring on the hospital network 32 via the central monitoring stations 38. This may be accomplished, for example, using protocols layered on UDP/IP multicasting, or by using other realtime network data transfer methods that are known in the art such as RSVP (Resource Reservation Protocol) and RTP (Realtime Transport Protocol). The physiologic data may also be stored in a database of the physiologic data server 46 for subsequent retrieval. The various non-realtime WLAN devices 36 in the preferred embodiment are commercially-available devices that include off-the-shelf 802.11 wireless modems. The system may also include wireless devices that use both types of WLANs (e.g., a patient transceiver 34 which includes an 802.11 transceiver for voice communications) (column 5 lines 23 to 40; see Figure 3). Carter et al. clearly disclose patient-worn remote transceivers detectable by said wireless LAN access points of said computer network, said patient-worn remote transceivers including means for transmitting identification information in accordance with a wireless network protocol corresponding to said patient-worn remote transceivers. Therefore, Carter et al. disclose a transponder detectable by said wireless access points of said computer network.

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